

Application Serial No. 09/901,120
Amendment dated February 24, 2006
Reply to Office action of August 24, 2005

REMARKS

Claims 84 to 93 are pending in the application. In this response Claims 84 and 90 are amended. New claims 94 to 100 are added. Support for the amendments is found throughout the specification, particularly in Figure 2 and in Examples 1 and 2, at page 24, lines 5-7. Support for new claims 94 to 100 is found throughout the specification, particularly in Examples 3 to 4, at pages 27-28 of the specification. Reconsideration in view of the foregoing amendments and following remarks is respectfully requested.

Claim Rejections - 35 U.S.C. § 102:

Claims 84-89, 92 and 93 were rejected under 35 U.S.C. § 102(b) as being anticipated by Tavlarides et al., U.S. Patent No. 4,726,221. Applicant respectfully traverses this rejection to the extent it may apply to the present claims.

Tavlarides discloses a method for measuring dispersed phase volumetric holdup in liquid/liquid dispersions using ultrasound. In the office action it is asserted that the Tavlarides apparatus anticipates the present claims as it contains a reaction chamber, two ultrasonic transducers, and a central processing unit. It is further asserted that the step of "applying ultrasound to a sample," is not a limitation of the pending claims, which are directed to a "system." It was also asserted that since the transducers of the system are separate from the vessel, they would be movable on the vessel as specified in claim 84.

Tavlarides does not disclose a system containing a biological sample or a fixative solution for preserving the morphology of a tissue for examination by microscopy. Because Tavlarides does not disclose each element of the system of claim 84, it does not anticipate claim 84 or any claim that depends from claim 84 either directly or indirectly. Therefore,

Application Serial No. 09/901,120
Amendment dated February 24, 2006
Reply to Office action of August 24, 2005

Applicant respectfully asks that the rejection of claims 84-89, 92 and 93 be withdrawn as it might be applied to the present claims.

Claims 84, 87, 90 and 91 were rejected under 35 U.S.C. 102(e) as being anticipated by Unger et al., U.S. Patent No. 6,743,779. Applicant respectfully traverses this rejection as it may be applied to the present claims.

Unger discloses a method for delivering a compound to a living cell in a process known as transfection. Unger also discloses a reaction chamber that is a multi-well plate with individual wells. The reaction chamber optionally includes a therapeutic ultrasound transducer, that can be used in the method of improving the delivery of a compound to the living cell. Unger further discloses that the temperature in the chamber is controlled by use of a heat exchanger and that the microtiter plate may include DNA. Finally, it is asserted that Unger teaches taking samples for measuring the temperatures in a solution of normal saline when exposed to ultrasound, which corresponds to the sampling means.

Unlike the system used in the method disclosed by Unger, the system of the present application includes a biological sample that does not contain living cultured cells as an integral part of the system. Moreover, the system is used to fix the tissue so that its morphology is preserved for examination using a microscope. Because Unger does not disclose each element of the system of the present claims, it does not anticipate those claims. Therefore, Applicant respectfully asks that the rejection based on Unger be withdrawn as it might be applied to the present claims.

Application Serial No. 09/901,120
Amendment dated February 24, 2006
Reply to Office action of August 24, 2005

Conclusion:

Applicants respectfully request reconsideration of the claims of the application and withdrawal of the rejections in view of the foregoing amendments and remarks.

Respectfully submitted,

By 
Barbara Webb Walker
Reg. No. 34,500
Attorney for Applicants
ROTHWELL, FIGG, ERNST & MANBECK
Suite 800, 1425 K Street, N.W.
Washington, D.C. 20005
Telephone: (202)783-6040

2313-118a-am4